



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2014-0575; FRL 9914-88-OAR]

RIN 2060-AS29

Regulation of Fuels and Fuel Additives: Extension of Compliance and Attest Engagement Reporting Deadlines for 2013 Renewable Fuel Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct Final Rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to extend two reporting deadlines for the 2013 compliance period under the Renewable Fuel Standard (RFS) program. This action specifically affects the annual compliance and attest engagement reporting requirement deadlines for regulated parties. The annual compliance reports and attest engagement reports for the 2013 RFS compliance period will not be due until 30 days and 90 days, respectively, following publication of the final rule establishing the 2014 renewable fuel percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel and total renewable fuel in the *Federal Register*. This action ensures timely amendment of existing deadlines, before compliance obligations would otherwise go into effect.

DATES: This rule is effective on September 29, 2014 without further notice, unless the EPA receives adverse comment by September 15, 2014. If the EPA receives adverse comment, we will publish a timely withdrawal notice in the *Federal Register* informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2014-0575, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- *Email:* a-and-r-docket@epa.gov.
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW. Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave. NW. Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2014-0575. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor MI 48105; Telephone number: 734-214-4131; Fax number: 734-214-4816; E-mail address: macallister.julia@epa.gov, or the public information line for the Office of Transportation and Air Quality; telephone number (734) 214-4333; E-mail address OTAQ@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why is the EPA Using a Direct Final Rule?

The EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the “Proposed Rules” section of today’s *Federal Register*, we are publishing a separate document that will serve as the proposed rule to extend certain reporting requirement deadlines for the 2013 RFS compliance period if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives adverse comment, we will publish a timely withdrawal in the *Federal Register* informing the public that this direct final rule will not take effect. We would address all public comments in a subsequent final rule based on the proposed rule.

II. Does this action apply to me?

Entities potentially affected by this direct final rule are those involved with the production, distribution, and sale of transportation fuels, including gasoline and diesel fuel or renewable fuels such as ethanol and biodiesel. Potentially regulated categories include:

Category	NAICS ¹ Codes	SIC ² Codes	Examples of Potentially Regulated Entities
Industry	324110	2911	Petroleum Refineries
Industry	325193	2869	Ethyl alcohol manufacturing
Industry	325199	2869	Other basic organic chemical manufacturing
Industry	424690	5169	Chemical and allied products merchant wholesalers
Industry	424710	5171	Petroleum bulk stations and terminals
Industry	424720	5172	Petroleum and petroleum products merchant wholesalers
Industry	454319	5989	Other fuel dealers

¹ North American Industry Classification System (NAICS)

² Standard Industrial Classification (SIC) system code

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your activities would be regulated by this action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section.

III. Background and Purpose

The EPA is today taking action to amend existing regulatory deadlines for regulated parties under the RFS program regarding the submission of annual compliance reports and attest engagement reports for the 2013 RFS compliance period.

We received comments on our November 29, 2013 proposed rulemaking to establish the 2014 renewable fuel percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel and total renewable fuel¹ reiterating the importance to obligated parties of knowing their RFS obligations for the 2014 RFS compliance period prior to the compliance demonstration

¹ 78 FR 71732 (November 29, 2013).

deadline for the 2013 RFS compliance period. The EPA recognized the value of this timing to obligated parties in the 2013 RFS final rule, and for that reason delayed the normally applicable February 28 compliance demonstration deadline to June 30, 2014 for the 2013 RFS compliance period.² We reasoned at that time that an extension to June 30, 2014 would be sufficient in light of the expected date of issuance of the final rule establishing the 2014 renewable fuel percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel and total renewable fuel.

Because the 2014 renewable fuel standards were not final at the time the annual compliance reports for the 2013 RFS compliance period were coming due, we further extended this reporting deadline until September 30, 2014 (as well as the associated deadline for attest engagement reports until January 30, 2015).³ However, in light of the further delay in issuing the final rule establishing the 2014 renewable fuel percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel and total renewable fuel, we are issuing this direct final rule (with a parallel proposal in the event that we receive adverse comments) providing an additional extension of the annual compliance and attest engagement reporting deadlines for the 2013 RFS compliance period. Regulated parties will not have to submit annual compliance reports and attest engagement reports for the 2013 RFS compliance period until 30 days and 90 days, respectively, following publication of the final rule establishing the 2014 renewable fuel percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel and total renewable fuel in the *Federal Register*.

IV. Statutory and Executive Order Reviews

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

² 78 FR 49794, 49800 (August 15, 2013).

³ 79 FR 34242 (June 16, 2014).

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

There are no new information collection requirements associated with this rulemaking. The extension of the existing regulatory deadlines for regulated parties under the RFS program imposes no new or different reporting requirements on regulated parties. The existing information collection requests (ICR) that apply to the RFS program are sufficient to address the reporting requirements in the regulations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small

organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule amends the existing regulatory deadlines for regulated parties under the RFS program to submit reports demonstrating their compliance with the 2013 RFS standards, and to submit corresponding attest engagement reports. This action ensures timely amendment of existing deadlines, before compliance obligations would otherwise go into effect. The impacts of the RFS program on small entities were already addressed in the RFS2 final rule promulgated on March 26, 2010 (75 FR 14670), and this rule will not impose any additional requirements on small entities beyond those already analyzed.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for State, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule only applies to gasoline, diesel, and renewable fuel producers, importers, distributors and marketers and merely extends the otherwise applicable reporting deadlines.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on

the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action amends the existing regulatory deadlines for regulated parties under the RFS program to submit reports demonstrating their compliance with the 2013 RFS standards, and to submit corresponding attest engagement reports. The new deadlines only apply to gasoline, diesel, and renewable fuel producers, importers, distributors and marketers. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule will be implemented at the Federal level and affects transportation fuel refiners, blenders, marketers, distributors, importers, exporters, and renewable fuel producers and importers. Tribal governments will be affected only to the extent they purchase and use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks and because it implements specific standards established by Congress in statutes (section 211(o) of the Clean Air Act).

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action simply amends certain reporting deadlines for regulated parties under the RFS program.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or

environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action does not relax the control measures on sources regulated by the RFS regulations and therefore will not cause emissions increases from these sources.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

V. Statutory Authority

Statutory authority for this action comes from sections 211 and 301(a) of the Clean Air Act, 42 U.S.C 7545 and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Oil imports, Petroleum, Renewable fuel.

Dated: July 31, 2014.

Gina McCarthy,

Administrator.

For the reasons set forth in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

Part 80--REGULATION OF FUELS AND FUELS ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C., 7414, 7521, 7545, and 7601(a).

Subpart M— Renewable Fuel Standard

2. Section 80.1451 is amended by revising paragraph (a)(1)(xiv) to read as follows:

§ 80.1451 What are the reporting requirements under the RFS program?

(a) * * *

(1) * * *

(xiv) For the 2013 compliance year, annual compliance reports shall be submitted within 30 days after publication in the Federal Register of the final rule establishing the 2014 renewable fuel percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel and total renewable fuel.

* * * * *

3. Section 80.1464 is amended by revising paragraph (g) to read as follows:

§80.1464 What are the attest engagement requirements under the RFS program?

* * * * *

(g) For the 2013 compliance year, reports required under this section shall be submitted to the EPA within 90 days after publication in the Federal Register of the final rule establishing the 2014 renewable fuel percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel and total renewable fuel.

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